IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2920 of 2000

to

SPECIAL CIVIL APPLICATIONNo 2941 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VIJAYNAGAR EDUCATION SOCIETY

Versus

STATE OF GUJARAT

Appearance:

MR SHAILESH C PARIKH for Petitioners

GIRISH PATEL ASSOC for Respondent No. 2

CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 24/04/2000

COMMON ORAL JUDGEMENT

#. Mr.Parikh, tenders draft amendment which is allowed Mr.Parikh shall carry out that amendment latest

by 2.5.2000.

#. Rule. Mr.Patel waives service of rule. Mr.Digant Joshi, learned A.G.P. for the State also waives service of rule.

#. Mr.Shailesh Parikh, learned advocate for the petitioner is challenging the order passed by the Gujarat Primary Education Tribunal in Application No.207/99 to 228/99. A copy of which is at Annexure-M page 86 to 88. Mr.Parikh, submitted that by the said order the Tribunal is pleased to order that the applicant of the said application shall be paid the salary according to the Vth Pay Commission from the month of January, 2000. Mr.Parikh, vehemently submitted that the tribunal could not have passed the interim direction in these terms and therefore the same is required to be quashed and set aside by this court

#. After the argument of both the sides were heard it was suggested to the management that the management may consider to pay something more than what they are paying to the teachers. The details of the payment are set out in Annexure-G p.53. Mr.Parikh submitted that the increase at 35% was given to the teachers with effect from June 1999. With some hesitation but after persuation management agreed that the management will be paying an increase at the rate of 45% instead of 35% which is paid since June 1999. Mr.Patel, the learned advocate appearing on caveat has produced the calculation to show as to under the Vth Pay Commission, what amount the teachers will be entitled to get. The last column of "difference" shows that the teachers will be entitled to get between Rs.1300 and odd to Rs.1800 and odd, in case of individual teachers. Mr.Patel wanted that management shall pay the 50% of this difference amount to the teachers during the pendency of the application before the tribunal. The difference between the two proposals is not much and therefore it is directed that the management shall pay to all the teachers, by calculating the amount of salary which is mentioned at page 52 by increasing the same by 45% instead of 35%.

#. Mr.Parikh, the learned advocate for the petitioner submitted that the management agreed only for the additional payment at the rate of 45% increase from the month of June, 2000, the said proposal is not reasonable in view of the fact that the tribunal has given the clear direction that the teachers are required to be paid according to Vth Pay Commission from the month of January, 2000. Hence the management is directed to pay

the increase at the rate of 45% from the month of January, 2000 and not from June, 2000.

#. Mr.Parikh, submitted that this increase is agreed by the management without prejudice, to the rights and contentions of the management in the application/s which are pending before the tribunal. It goes without saying that the additional amount which is agreed to be paid is without prejudice to the rights and contentions of both the parties and the same will not have any bearing on the merits of the case. It will be open to the parties that in case this present order is subject to appeal, the parties will be at liberty to raise and put forward the contention available to them.

#. In view of the aforesaid agreement arrived at between the parties this SCA is allowed. The order of the tribunal is modified to the aforesaid extent. The tribunal is directed to decide the Application No.207/99 to 228/99 preferably by 30.11.2000.

kks